IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 501 of 2002

in

SPECIAL CIVIL APPLICATIONNo 6431 of 2002

WITH

CIVIL APPLICATION No. 5100 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT
and
Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

HANITSINH THAKUBHA PARMAR

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Appearance:

1. LETTERS PATENT APPEAL No. 501 of 2002

MR HS MUNSHAW for Appellant No.

MS MAMTA R VYAS for Respondent No. 1

CORAM : MR.JUSTICE J.N.BHATT
and
MR.JUSTICE KUNDAN SINGH

Date of decision: 08/08/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE J.N.BHATT)

The only question which comes to the surface for our consideration and adjudication in this Letters Patent Appeal under Clause 15 of the Letters Patent Appeal Act, is as to whether the impugned judgment of the Learned Single Judge confirming the award of the Labour Court and directing the Appellant- Corporation to implement and comply with the award within the stipulated time framed as directed in the facts and circumstances is in any way unjust, unreasonable or vulnerable to which our answer upon scrutiny, analysis and consideration of the settled proposition of law is obviously positively in negative.

Upon a reference, the Labour Court allowed the claim of the appellant to give light duty to the respondent by reinstating him in the service with strong reasons and the grounds emerged from the factual profile of the record. It was in terms clearly found by the Labour Court that the workman who has developed physical ailment in the nature of back problems and entailing a problem for resume his original work of a Driver. The Labour Court after considering the facts of the case directed the Corporation to reinstate the workmanconcerned by giving him light work of the Corporation. Apart from the settlement, a master or the Management in a welfare state cannot be allowed to raise the plea that some bodily impairment rendering one person not serviceable for a particular type of service or job, it does not necessarily mean that the workman- concerned should be condemned once for all by removing him or dismissing him from the service. The role of master in such a situation where a semi-undertaking public utility or that to a common welfare state to see that physically impaired or a workman injured is not in a position to work on his original job, then he could be given the suitable job and lighter work which he is in a position to work despite the handicapisam. This proposition of law is advanced long before by the catena of judicial pronouncement and has also been done by the parliament in his wisdom in a recent act " The Persons with Disabilities [Equal Opportunities, Protection of Rights and Full Participation] Act, 1995". This benevolent concept has been placed in a Statute book which is nothing but a

social welfare measure for State of people who could not be thrown on such occurance of injury resulting into partial disability.

The award made by the Labour Court is justified and we are satisfied that the rejection of the writ petition by the learned Single Judge in the aforesaid factual and legal background is fully justified requiring no interference and therefore, this L.P.A. being meritless is required to be thrown over the Board at the inception without any order as to costs.

As the Letters Patent Appeal is dismissed, no order on the civil application.

08.8.2002 [J.N.BHATT, J]

[KUNDAN SINGH, J]

S.Shakuntala